IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2598 OF 2006

Mr.Abdullah Ibrahim Ansari .. Petitioner.

V/s.

1. Smt.Shaheen Mirza Zaheer Baig and others. .. Respondents.

Mr. I.R.Kulkarni for the Petitioner.

Ms. Lalita Panchakshari for the Respondent No.1.

CORAM : R.M. SAVANT, J.

DATED : 05th JUNE, 2007.

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioner who is the original defendant No.3 has challenged the order dated 14.02.2006 passed by the Bombay City Civil Court in S.C. Suit No. 4566 of 2005. The respondent No.1 is the original plaintiff and the sister of the respondent No.2 herein. Respondent Nos. 1 and 2 are husband and wife respectively. The said suit was filed by the respondent No.1 herein under section 6 of the Specific Relief Act, alleging that she has been ousted from the premises in question. The premises are tenanted premises standing in the name of the late grand father of the respondent

No.1 herein.

2. In the said suit, a notice of motion came to be filed for restraining the defendants from alienating or creating any third party interest in the suit and for appointment of the court receiver, allowing the plaintiff to occupy the suit premises as agent of the court receiver. In the said notice of motion, the defendant No.1 herein appeared before the court and made a statement that the defendant Nos.1 and 2 to the suit were no longer in possession. It is defendant No.3, the petitioner above named, who is in possession and who has purchased the property from the defendant No.2.

3. The said motion came to be allowed and the petitioner who was joined as defendant No.3 was directed to hand over the possession of the premises in question to the plaintiff within two weeks. It is the case of the petitioner above named that in passing the said order, the learned Judge of the City Civil Court has virtually decreed the suit at the interim stage which was impermissible. It is further submitted that since the parties have still to go to trial, it amounts to granting final reliefs.

4. In my view the trial court has committed an

error in granting reliefs in the manner it has done and therefore, the petition would require consideration.

5. However, the learned counsel for the petitioner submitted that instead of keeping the petition pending the impugned order may be set aside and the petitioner herein and the respondent No.2 be directed to maintain status-quo and not to create third party interest, pending the said suit.

6. In the light of the above, the petition is disposed of by setting aside the impugned order dated 14.2.2006 and by directing that the petitioner and the respondent No.2 herein to maintain status quo and not to create any third party interest in respect of the suit premises.

7. Petition is disposed of in the aforesaid terms.

(R.M.SAVANT,J.)

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